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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/699,679 | 11/04/2003 | Pierre Cote | IQB-0007C1 | 4941 |
| 34610 | 7590 | 04/11/2006 | EXAMINER | |
| FLESHNER & KIM, LLP P.O. BOX 221200 CHANTILLY, VA 20153 | | | COUSO, YON JUNG | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2624 | |
| DATE MAILED: 04/11/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 10/699,679 | Applicant(s) COTE, PIERRE | |
| | Examiner Yon Couso | Art Unit 2624 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/4/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The disclosure is objected to because of the following informalities: The continuation data is missing from the specification. The continuation data should be included after the title in the specification.

Appropriate correction is required.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-11 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/699,681 (herein called '681). Although the conflicting claims are not identical, they are not patentably distinct from each other because '681 teaches a method, comprising: developing a database of elements (claim 1, line 2), wherein the elements are predetermined portions of image (claim 1, line 2). Even though '681 does not use the exact same wording, forming a morphological image

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using a database of pictorial entities reads on developing a database elements and creating element codes corresponding to the morphological image reads on the elements predetermined portion of images.

As to claim 2, '681 teaches that predetermined portions of images comprises: a library of facial images (claim 3).

As to claim 3, '681 teaches that the library of pictorial entities comprises predetermined portions of the facial images (claim 3).

As to claim 4, '681 teaches that the predetermined portions of facial images comprise eyes, noses, wrinkles, mouth, ears, hair, hairstyle, facial shape, chin, or facial hair (claim 4).

As to claim 5, '681 teaches that the predetermined portions of facial images comprise eyeglasses, jewelry, or head wear (claim 5).

As to claim 6, '681 teaches that the predetermined portions of images comprises a library of image qualifiers (claim 6).

As to claim 7, '681 teaches that the library of image qualifiers comprises visual effects applied to an image (claim 7).

As to claim 8, '681 teaches that the visual effects comprise enlarging, detracting, positioning, or coloring (claim 8).

As to claim 9, '681 teaches a computer software product that includes a medium readable by a processor, the medium having stored thereon: an image information of a plurality of elements; a qualifier information of a plurality of spatial relationships between said plurality of elements; and a sequence of instructions which, when

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executed by said processor, causes said processor to connect at least one element to at least one spatial relationship, wherein said sequence of instructions includes, as an attribute, combining at least other element with at least one other spatial relationship with said at least one element and at least one spatial relationship (claim 9, lines 1-9).

As to claim 10, '681 teaches that the sequence of instructions forms an image based on first element and a corresponding first spatial relationship (claim 10).

As to claim 11, '681 teaches a computer-readable medium having stored thereon a plurality of sequences of instructions, the plurality of sequences of instructions including sequences of instructions which, when executed by a processor, cause said processor to perform the steps of: receiving a predetermined selection of either an element from image information or a spatial relationship from qualifier information; obtaining link information corresponding to a selected element or spatial relationship, wherein the link information includes a user's selection as an attribute of the link information; displaying elements linked with a selected spatial relationship in sequence using the link information, if an element is selected for browsing; and displaying spatial relationships which describe elements linked with a selected spatial relationship in sequence using the link information, if a spatial relationship is selected, wherein said displaying elements and displaying spatial relationships comprises displaying a facial image (claim 11, lines 1-14).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 is rejected under 35 U.S.C. 102(e) as being anticipated by Eraslan (US Patent No. 6,381,346).

As to claim 1, Eraslan teaches a method, comprising: developing a database of elements, wherein the elements are predetermined portions of image (column 3, lines 24-40 and column 12, lines 44-49).

As to claim 2, Eraslan teaches that predetermined portions of images comprises: a library of facial images (3405 in figure 34).

As to claim 3, Eraslan teaches that the library of pictorial entities comprises predetermined portions of the facial images (column 12, lines 44-49).

As to claim 4, Eraslan teaches that the predetermined portions of facial images comprise eyes, noses, wrinkles, mouth, ears, hair, hairstyle, facial shape, chin, or facial hair (column 12, lines 14-19).

As to claim 5, Eraslan teaches that the predetermined portions of facial images comprise eyeglasses, jewelry, or head wear (column 12, lines 25-27, other features would read on these accessories).

As to claim 6, Eraslan teaches that the predetermined portions of images

comprises a library of image qualifiers (3405 in figure 34).

As to claim 7, Eraslan teaches that the library of image qualifiers comprises visual effects applied to an image (column 14, lines 56-column 15, line 19).

As to claim 8, Eraslan teaches that the visual effects comprise enlarging, detracting, positioning, or coloring (column 14, lines 56-column 15, line 19).

As to claim 9, Eraslan teaches a computer software product that includes a medium readable by a processor, the medium having stored thereon: an image information of a plurality of elements; a qualifier information of a plurality of spatial relationships between said plurality of elements (3426 in figure 34); and a sequence of instructions which, when executed by said processor, causes said processor to connect at least one element to at least one spatial relationship, wherein said sequence of instructions includes, as an attribute, combining at least other element with at least one other spatial relationship with said at least one element and at least one spatial relationship (column 8, lines 18-25 and column 14, lines 14-34).

As to claim 10, Eraslan teaches that the sequence of instructions forms an image based on first element and a corresponding first spatial relationship (column 8, lines 18-25 and column 14, lines 14-34).

As to claim 11, Eraslan teaches a computer-readable medium having stored thereon a plurality of sequences of instructions, the plurality of sequences of instructions including sequences of instructions which, when executed by a processor, cause said processor to perform the steps of: receiving a predetermined selection of either an element from image information or a spatial relationship from qualifier information (3426

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in figure 34); obtaining link information corresponding to a selected element or spatial relationship, wherein the link information includes a user's selection as an attribute of the link information (column 8, lines 18-25 and column 14, lines 14-34); displaying elements linked with a selected spatial relationship in sequence using the link information, if an element is selected for browsing (3406 in figure 34); and displaying spatial relationships which describe elements linked with a selected spatial relationship in sequence using the link information, if a spatial relationship is selected, wherein said displaying elements and displaying spatial relationships comprises displaying a facial image (3410 in figure 34). Even though Eraslan does not teach details on browsing or displaying according to the user's selection, Eraslan clearly discloses user interface in the system (column 8, lines 18-25). Given the processor and software as in Eraslan along with the teachings in user interface, browsing or displaying in accordance with the user's selection would have been inherent to the system taught in Eraslan.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshino et al (US Patent No. 5,644,690).

As to claim 1, Yoshino teaches a method, comprising: developing a database of elements, wherein the elements are predetermined portions of image (column 4, line 51-column 5, line 6).

As to claim 2, Yoshino teaches that predetermined portions of images comprises: a library of facial images (column 4, line 51-column 5, line 6).

As to claim 3, Yoshino teaches that the library of pictorial entities comprises predetermined portions of the facial images (column 4, line 51-column 5, line 6).

As to claim 4, Yoshino teaches that the predetermined portions of facial images comprise eyes, noses, wrinkles, mouth, ears, hair, hairstyle, facial shape, chin, or facial hair (column 12, lines 14-19).

As to claim 9, Yoshino teaches a computer software product that includes a medium readable by a processor, the medium having stored thereon: an image information of a plurality of elements; a qualifier information of a plurality of spatial relationships between said plurality of elements; and a sequence of instructions which, when executed by said processor, causes said processor to connect at least one element to at least one spatial relationship, wherein said sequence of instructions includes, as an attribute, combining at least other element with at least one other spatial relationship with said at least one element and at least one spatial relationship (column 4, line 50—column 6, line 4).

As to claim 10, Yoshino teaches that the sequence of instructions forms an image based on first element and a corresponding first spatial relationship (column 4, line 59-column 5, line 12).

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bulman et al is also cited

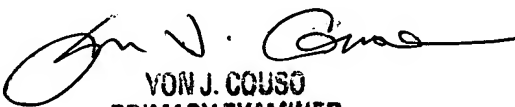
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yon Couso whose telephone number is (571) 272-7448. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu, can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YJC


YON J. COUSO
PRIMARY EXAMINER

March 30, 2006